

Nextel Communications, Inc.
2001 Edmund Halley Drive, Reston, VA 20191



January 28, 2003

Via Electronic Mail Delivery

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
TW-A325
Washington, DC 20554

Re: **Notice of Oral Ex Parte Communication**
Federal Preemption of Anne Arundel County Ordinance Regarding
Radio Frequency Interference, WT Docket No. 02-100

Dear Ms. Dortch:

On January 28, 2003, Lawrence R. Krevor, Vice President – Government Affairs for Nextel Communications, Inc. ("Nextel") spoke via telephone with Gary Oshinsky of the Wireless Telecommunications Bureau regarding the above-captioned proceeding.

Nextel informed Mr. Oshinsky that Anne Arundel County, Maryland (the "County") is actively enforcing its challenged radio frequency interference ordinance despite previous indications that it would not. Specifically, Nextel explained that the County is withholding action on three proposed Nextel antenna installations because Nextel has not supplied a "Certificate of Non-Interference" for each site as now required by the ordinance. Nextel submitted properly prepared applications for each of the three proposed sites before November 1, 2002; it did not provide the interference certifications because the issue of the County's lack of jurisdiction to regulate wireless communications networks remains pending before the Commission. The County has indicated that Nextel has satisfied all other County requirements, but that the County will not act until Nextel provides the interference certifications.

Nextel informed Mr. Oshinsky that the County's continued failure to process and approve these three sites is impairing Nextel's ability to improve its coverage, capacity and network quality for subscribers living, working and traveling in and through Anne Arundel County. Nextel also noted that T-Mobile USA, Inc., Sprint PCS and Cingular Wireless have each recently notified the Commission of similar enforcement by the County's of its non-interference certification. Thus, the County is actively implementing its ordinance in violation

of the Communications Act of 1934, as amended. *The Commission should promptly grant Cingular's pending Petition for Declaratory Ruling and declare that the County's ordinance is an impermissible attempt to regulate radio frequency interference – a matter solely within the jurisdiction of the Federal Communications Commission.*

Nextel has in the past and will continue to take into account in its system design and frequency planning the likelihood of interference from new Nextel sites to Anne Arundel County's 800 MHz public safety communications network. Nextel will cooperate with the County to avoid and/or mitigate interference that may be related to Nextel's operations. Notwithstanding the above, the Commission must declare that it has exclusive jurisdiction over the licensing and operation of CMRS facilities and that Anne Arundel's ordinance is preempted.

Pursuant to Section 1.1206 of the Commission's Rules, Nextel has electronically filed this *ex parte* notification in the above-captioned docket. Should there be any questions in regards to this matter, please contact the undersigned.

Respectfully submitted,

/s/ James B. Goldstein

James B. Goldstein
Senior Attorney – Government Affairs

cc: Gary Oshinsky